

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

WP(C).No. 23869 of 2006(N)

PETITIONER:

K. KAMALAMMA, RAJ NIVAS,
KALLIYOOR P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS:

1. DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.
2. ENVIRONMENTAL ENGINEER,
POLLUTIONN CONTROL BOARD, THIRUVANANTHAPURAM.
3. THE PALLICHAL GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
VEDIVACHANKOVIL, BALARAMAPURAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.JAMES KURIAN, SC,POLLUTION C.BOARD
SRI.L.MOHANAN (R3)
GOVERNMENT PLEADER SRI.MATHEW G.VADAKKAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28/11/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 23869 of 2006

Dated this 28th day of November, 2006

JUDGMENT

The petitioner, who has been conducting a crusher unit, was served with Ext.P7 order by the Secretary of the Panchayat. Ext.P7 was issued to the petitioner on the basis of a letter from the District Collector dated 27.7.2006 directing the closure of all crusher units which were functioning without the consent from the Pollution Control Board. Even though the Standing Counsel took notice on behalf of the Pollution Control Board (2nd respondent), he has not filed any statement answering the grounds raised in the writ petition. The District Collector has filed a statement, which is to the effect that he issued letter referred to in Ext.P7 on the basis of an enquiry conducted into the complaint submitted by one Sri.Aswani Kumar. Enquiry according to the statement will reveal that as many as 14 unauthorized crusher units are functioning at Mookkunnimala area including the crusher unit of the petitioner. It is also stated that even though the direction by the Collector was to ensure

closure of the 14 unauthorized crusher units, only the petitioner's licence was cancelled and the Collector addressed the Panchayat to clarify as to why the petitioner alone has been singled out for action.

2. The Panchayat has filed a counter affidavit producing Ext.R3(a) Circular of the Government, which is to the effect that for granting licence for metal crusher unit of which its productivity below 10 tons per day permission from the Pollution Control Board is not at all required. Another document produced along with the statement is the District Collector's order dated 27.7.2006 (Ext.R3(b)). Ext.P7 is justified on the basis of Ext.R3(b).

3. Even though several grounds have been raised in the writ petition, what was highlighted before me by the learned counsel for the petitioner was the ground that Ext.P7 has been issued in violation of principles of natural justice. The petitioner was not aware about the complaint on which the District Collector initiated Ext.R3(b). The above submissions appeal to me and therefore, without going into the merits of the matter, I

quash Ext.P7 and direct the Panchayat to have reconsideration of the issue resulting in Ext.P7 order. The Panchayat will issue notice to the petitioner, hear the petitioner and take a fresh decision. The Panchayat will also issue notice to Aswini Kumar who filed complaint before the District Collector. Fresh orders to be passed by the Panchayat shall give reasons as to why the petitioner's unit alone is singled out for action while the other 13 crusher units within the limits of the Panchayat are allowed to function.

Fresh decision as ordered will be taken within three months of the petitioner receiving a copy of this judgment.

The writ petition is disposed of as above.

PIUS C.KURIAKOSE
Judge

dpk